



OFFICE OF
INSURANCE COMMISSIONER

TECHNICAL ASSISTANCE ADVISORY

T 2005-06

TO: Property and Casualty Insurers Authorized in Washington

SUBJECT: Obligation to Send Adverse Action Notices Related to Credit History or Insurance Scoring

DATE: October 10, 2005

This Technical Assistance Advisory applies to insurers (“you”) that use credit history or insurance scoring in the underwriting and/or rating of personal lines insurance in Washington. It emphasizes your obligation to send an adverse action notice whenever you take adverse action based on an insurance score, even when that score is based on both credit history and non-credit attributes of the consumer. This Technical Assistance Advisory also discusses difficulties you may have to overcome when a vendor is calculating all or part of the insurance score for you.

RCW 48.18.545(1)(f) and RCW 48.19.035(1)(d) define *insurance score* to mean “a number or rating that is derived from an algorithm, computer application, model, or other process that is based in whole or in part on credit history.” RCW 48.18.545(2) requires you to send a written adverse action notice whenever you take “adverse action against a consumer based in whole or in part on credit history or insurance score.” WAC 284-24A-010 and WAC 284-24A-011 describe in greater detail the information you must provide in each adverse action notice.

Some insurers have filed and are using insurance scoring models that are based entirely (“in whole”) on credit history. Others have filed and are using insurance scoring models that are based only in part on credit history; these models include other, non-credit consumer attributes.

If you take adverse action based on an insurance score, the law clearly provides that you must send an adverse action notice, even if the credit history component of the insurance score was perfect and the adverse action is really due to non-credit elements of the insurance score. And if your adverse action is based on both credit history and non-credit components of the insurance score, your adverse notice should include both the credit history reasons and the non-credit reasons for your action.

In writing and sending any adverse action notice, it is your responsibility to determine which factors are really significant. If your insurance scoring model includes both credit history and non-credit components, you must have a means of comparing the significance of the various credit history and non-credit factors considered by the insurance scoring model for each consumer. If all or part of the insurance score is being calculated by a vendor, you must ensure

that the vendor provides you with sufficient information to enable you to make these comparisons and send an appropriate adverse action notice when a notice is required.

When you send an adverse action notice, it is never acceptable to tell the consumer only that his or her insurance score was less than perfect and not include at least one significant factor that caused the adverse action. Again, if the model is being run by a vendor, you must ensure that the vendor provides you with sufficient information to enable you to send an appropriate adverse action notice.

Finally, please note that this Technical Assistance Advisory explains how Washington statutes apply. It does not attempt to explain the application of federal laws (e.g., FCRA, as updated by FACTA). Nothing in the Washington insurance scoring statutes relieves you of your duty to comply with any requirements imposed by federal law.

If you have questions concerning this Technical Assistance Advisory, you may contact Senior Actuary Lee Barclay at (360) 725-7115 or LeeB@oic.wa.gov.